

2007 JUN 21
U.S. DISTRICT COURT
CLEVELAND, OHIO
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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

ISRAEL FLORES)	CASE NO. 3:06 CV 2805
)	
Petitioner,)	JUDGE DAN AARON POLSTER
)	
vs.)	<u>MEMORANDUM OF OPINION</u>
)	<u>AND ORDER</u>
JESSE WILLIAMS, Warden,)	
)	
Respondent.)	

Before the Court is the Report and Recommendation of Magistrate Judge Patricia A. Hermann issued on May 21, 2007 (ECF. No. 9). Petitioner Israel Flores has filed a 28 U.S.C. § 2254 petition for writ of habeas corpus challenging his 2004 state conviction for drug trafficking with a specification that the crime was committed in the vicinity of a juvenile. The petition alleges one ground: that petitioner's due process rights were violated when the prosecutor withheld evidence that impeached the state's key witness.

Under the relevant statute:

Within *ten days* after being served with a copy, any party may serve and file written objections to such proposed findings and recommendations as provided by rules of court. A judge of the

court shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made.

28 U.S.C. § 636(b)(1)(C) (1988) (emphasis added). Here, one month has elapsed since the Magistrate Judge's Report and Recommendation was issued, and neither an objection nor a request for an extension to file objections has been filed.

The failure to timely file written objections to a Magistrate Judge's report and recommendation constitutes a waiver of a de novo determination by the district court of an issue covered in the report. Thomas v. Arn, 728 F.2d 813 (6th Cir. 1984), aff'd, 474 U.S. 140 (1985); see United States v. Walters, 638 F.2d 947 (6th Cir. 1981).

The Court has reviewed the Magistrate Judge's thorough and well-written Report and Recommendation (**ECF No. 9**) and hereby **ADOPTS** it. Accordingly, the underlying petition for writ of habeas corpus is **DENIED**.

IT IS SO ORDERED.



Dan Aaron Polster
United States District Judge